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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Michael J. SHEA

Serial No. 09/731,655

Filed: December 8, 2000

For: EXERCISE SYSTEM



Dkt. No. EX-4C8

Group: 3764

Examiner: TBA

* * * * *

February 12, 2001

Assistant Commissioner for Patents
Washington, DC 20231

Sir:

RESPONSE TO NOTICE OF OMITTED ITEM(S)

This paper is responsive to the Notice of Omitted Item(s) in a Nonprovisional Application mailed January 24, 2001 and is filed prior to the expiration of the two (2) month period for response set in the Notice.

The Notice states that Figure 11E appears to have been omitted from the application filed on December 8, 2000. However, the references to Figure 11E in the specification are typographical errors - the specification should have referred to Figures 11A-11D, not Figures 11A-11E. As such, Applicant respectfully requests that this application maintain a filing date as of the date of deposit of the application papers in the USPTO (i.e., December 8, 2000).

Michael J. SHEA

Serial No. 09/731,655

A Second Preliminary Amendment eliminating the references to Figure 11E
in the specification is filed concurrently herewith.

Respectfully submitted,

By: Michael J. Shea
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UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/731,655	12/08/2000	Michael J. Shea	EX-4C8

Michael J. Shea
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CONFIRMATION NO. 1568

FORMALITIES LETTER



OC000000005701114

Date Mailed: 01/24/2001

NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

A filing date has been accorded to the above-identified nonprovisional application papers; however, the following item(s) appear to have been omitted from the application:

- Figure(s) **Fig 11E** described in the specification.

I. Should applicant contend that the above-noted omitted item(s) was in fact deposited in the Patent and Trademark Office (PTO) with the nonprovisional application papers, a copy of this Notice and a petition (and \$130.00 petition fee (37 CFR 1.17(i))) with evidence of such deposit **must** be filed within **TWO MONTHS** of the date of this Notice. The petition fee will be refunded if it is determined that the item(s) was received by the PTO.

II. Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the PTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition under 37 CFR 1.182 (with the \$130.00 petition fee (37 CFR 1.17(h)) requesting the later filing date **must** be filed within **TWO MONTHS** of the date of this Notice.

III. The failure to file a petition (and petition fee) under the above options (I) or (II) within **TWO MONTHS** of the date of this Notice (37 CFR 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited in the PTO. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) or (b).** In the absence of a timely filed petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the PTO, and original application papers (*i.e.*, the original disclosure of the invention) will include only those application papers present in the PTO on the date of deposit.

In the event that applicant elects not to take action pursuant to options (I) or (II) above (thereby constructively electing option (III)), amendment of the specification to renumber the pages consecutively and cancel incomplete sentences caused by any omitted page(s), and/or amendment of the specification to cancel all references to any omitted drawing(s), relabel the drawing figures to be numbered consecutively (if necessary), and correct the references in the specification to the drawing figures to correspond with any relabelled drawing figures, is required. Any drawing changes should be accompanied by a copy of the drawing figures showing the proposed changes in red ink. Such amendment and/or correction to the drawing figures, if necessary, should be by way of preliminary amendment submitted prior to the first Office action to avoid

delays in the prosecution of the application.

A copy of this notice MUST be returned with the reply.

Freeman

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE